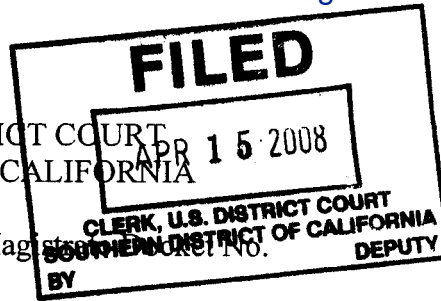


Cale

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA



UNITED STATES OF AMERICA,

Plaintiff,

v.

Agustin DIAZ-Martinez,

Defendant

Magistrate Clerk, U.S. District Court
Southern District of California
BY

COMPLAINT FOR VIOLATION OF:

Title 8, U.S.C., Section 1326

Deported Alien Found in the

United States

08 MJ 1154

The undersigned complainant, being duly sworn, states:

On or about **April 14, 2008** within the Southern District of California, defendant, **Agustin DIAZ-Martinez**, an alien, who previously had been excluded, deported and removed from the United States to **Mexico**, was found in the United States, without the Attorney General or his designated successor, the Secretary of the Department of Homeland Security (Title 6, United States Code, Sections 202(3) and (4), and 557), having expressly consented to the defendant's reapplication for admission into the United States; in violation of Title 8 United States Code, Section 1326.

And the complainant further states that this complaint is based on the attached statement of facts, which is incorporated herein by reference.

SIGNATURE OF COMPLAINANT

James Trombley

Senior Patrol Agent

SWORN TO BEFORE ME AND SUBSCRIBED IN MY PRESENCE, THIS 15th DAY OF APRIL 2008

Barbara L. Major

UNITED STATES MAGISTRATE JUDGE

PROBABLE CAUSE STATEMENT

On April 14, 2008, SIG/CAS Agents conducted surveillance in the 4000 block of 34th Street in San Diego, California based on information received that an individual identified as the defendant **Agustin DIAZMartinez** was back in the United States illegally.

At approximately 10:25 a.m., Agent Blas, observed a man matching the description and likeness of the defendant walking in front of the address in San Diego, California. Agent Blas approached the individual and identified himself as United States Border Patrol Agent. Agent Blas questioned the subject as to his identity and his immigration status. The defendant stated that he was in fact Agustin Diaz-Martinez. Agent Blas asked the defendant about his citizenship and nationality. The defendant stated that he was a citizen and national of Mexico without any immigration documents that would allow him to remain in the United States legally. The defendant was arrested and transported to the Chula Vista Border Patrol Station for processing.

Routine record checks of the defendant revealed a criminal and immigration history. The defendant's record was determined by a comparison of his criminal record and the defendant's current fingerprint card. Official immigration records of the Department of Homeland Security revealed the defendant was previously deported to **Mexico on April 30, 2007 through San Ysidro, California**. These same records show that the defendant has not applied for permission from the Attorney General of the United States or his designated successor, the Secretary of the Department of Homeland Security, to return to the United States after being removed.

The defendant was advised of his Miranda rights. The defendant stated that he understood his rights and was willing to answer questions without an attorney present. The defendant admitted that he is a citizen and national of Mexico illegally present in the United States.